

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6917**

**BILL NUMBER:** HB 1394

**NOTE PREPARED:** Feb 18, 2004

**BILL AMENDED:** Feb 17, 2004

**SUBJECT:** Driving While Intoxicated and Causing Death.

**FIRST AUTHOR:** Rep. Bosma

**FIRST SPONSOR:** Sen. M. Young

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X GENERAL  
                          X DEDICATED  
                          FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) To honor the memory of Representative Roland Stine, this bill has the following provisions:

- A. It provides that a person at least 21 years of age who causes the death of another person while operating a motor vehicle with an alcohol concentration of at least 0.15 gram of alcohol per: (1) 100 milliliters of the person's blood; or (2) 210 liters of the person's breath; commits a Class B felony.
- B. It provides that a person who causes the death of another person while having a BAC of between 0.08% and 0.15% , and who knowingly operated the motor vehicle with a driver's license that was suspended or revoked based on a previous conviction for OWI commits a Class B felony.

**Effective Date:** July 1, 2004.

**Explanation of State Expenditures:** (Revised) Under current law, an operator causing the death of another when operating a motor vehicle (1) with a blood- or breath-alcohol concentration of at least 0.08 grams, (2) with a schedule I or II controlled substance in the person's body, or (3) while intoxicated is a Class C felony.

This bill would change the blood- or breath-alcohol concentration to between 0.08 grams and 0.15 grams for the Class C felony and increase the penalty to a Class B felony for causing a death when driving while intoxicated for either of the following reasons:

- being at least 21 years of age and operating a motor vehicle with a blood- or breath-alcohol concentration of 0.15 or more; or
- operating a vehicle while having a BAC of between 0.08% and 0.15% with a suspended or revoked driver's license for a previous OWI violation.

State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. A Class C felony is punishable by a prison term ranging between two and eight years, depending upon mitigating and aggravating circumstances. A Class B felony is punishable by a prison term ranging from 6 to 20 years. The average expenditure to house an adult offender was \$26,825 in FY 2002. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for a Class C felony is approximately 1.9 years, while the average length of stay for a Class B felony is approximately 3.7 years.

Since offenders with a higher blood- or breath-alcohol concentration would have a later date of release, enhancing the offense from a Class C felony to a Class B felony could increase the number of beds needed if no other change occurs. Between FY 1997 and 2001, an average of 29 offenders were committed to DOC facilities for operating while intoxicated and causing death, but there are no data available to indicate the blood- or breath-alcohol concentration of these offenders.

**Explanation of State Revenues:** No change would likely occur in state revenue as a result of this bill since criminal fines and court fees are the same for either Class C or B felonies.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** No additional revenues would be expected since the court fees for Class C and Class B felonies are both \$120.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs Association, Department of Correction.

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